

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**MARK TASSINARI, RICHARD
ESPINOSA, RANDY OWENS, AND
JOHNATHAN ANDERSON**

individually and on behalf of all others
similarly situated,

Plaintiffs,

V.

**THE SALVATION ARMY NATIONAL
CORPORATION; THE SALVATION
ARMY, A NEW YORK CORPORATION,**

Defendants.

CASE NO. 1:21-CV-10806

DECLARATION OF LT. COLONEL DENNIS GENSLE

I, Lt. Colonel Dennis Gensler, do hereby swear, affirm and attest as follows:

1. I am a minister of the Gospel, being an Officer of The Salvation Army, a distinct international religious denomination and charitable organization, a branch of the Christian Church, which was founded in Great Britain in 1865 and is a church for all purposes.

2. I am the Adult Rehabilitation Center ("ARC") Commander of The Salvation Army's Eastern Territory within the United States (the "Eastern Territory"), which is operated by The Salvation Army, a New York corporation (the "New York Corporation"), the corporate instrumentality of the Eastern Territory. I am familiar with the operations of the New York Corporation and the ARCs operated by the New York Corporation. I have personal knowledge of the facts set forth below and, if called as a witness, I could and would testify competently to the

truth of these facts. I submit this Declaration in support of Defendants' motions to dismiss Plaintiffs' First Amended Complaint ("FAC").

3. As a matter of The Salvation Army's worldwide ecclesiastical structure, The Salvation Army has divided its operations in the United States into four geographic "Territories." Separate Salvation Army religious and non-profit corporate entities have been established, in turn, to conduct the activities of The Salvation Army in each of the four Territories within the United States, each of which operate independently and exclusively within their own relevant geographic areas.

4. The Eastern Territory comprises the states of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and certain counties in Kentucky as well as Puerto Rico and the U.S. Virgin Islands.

5. All of the activities and affairs of the Eastern Territory are conducted under the supervision of the Board of Trustees of the New York Corporation: such activities and affairs are not under the control of The Salvation Army National Corporation ("National Corporation") or of any of the corporate entities that conduct the activities of the other three geographic Territories.

6. The properties of The Salvation Army in the Eastern Territory are owned by the New York Corporation, a religious and non-profit entity incorporated in the State of New York. The New York Corporation has its headquarters in West Nyack, New York, from which it directs, controls, and coordinates all of the operations of the Eastern Territory.

7. The New York Corporation does not operate outside of the geographic area of the Eastern Territory and does not control the operations of any of the other Territories or of the National Corporation, including but not limited to any ARCs within the other three geographic Territories.

8. The ARC located in St. Louis, Missouri ("St. Louis ARC") is operated by The Salvation Army, an Illinois corporation (the "Illinois Corporation"), which is the non-profit corporate

entity that conducts the activities of The Salvation Army within the Central Territory of the United States. The New York Corporation does not own, operate, or exert any control over the St. Louis ARC or any decisions regarding admission, discharge, or participation of beneficiaries at the St. Louis ARC. The New York Corporation never had any contact with Plaintiff Jonathan Anderson.

9. The ARC located in New Orleans, Louisiana (“New Orleans ARC”) is operated by The Salvation Army, a Georgia corporation (the “Georgia Corporation”), which is the non-profit corporate entity that conducts the activities of The Salvation Army within the Southern Territory of the United States. The New York Corporation does not own, operate, or exert any control over the New Orleans ARC or any decisions regarding admission, discharge, or participation of beneficiaries at the New Orleans ARC. The New York Corporation never had any contact with Plaintiff Randy Owens.

10. The New York Corporation owns and operates 30 ARCs within the geographic area of the Eastern Territory, including an ARC in Saugus, Massachusetts (“Saugus ARC”) and an ARC in Providence, Rhode Island (“Providence ARC”). All ARC properties in the Eastern Territory are owned or leased directly by the New York Corporation.

11. The ARCs, which operate a short-term rehabilitation program, are fundamentally religious institutions and are not medical facilities or psychiatric clinics.

12. The ARCs are an essential part of The Salvation Army’s faith. The ARCs are the tools whereby Salvation Army Officers, who are ministers of the Gospel, practice and preach their theology, just like a church building or other place of worship.

13. The Salvation Army has long-standing, deeply held religious beliefs that govern the day-to-day lives of its members as well as the operation of its many religious and charitable programs.

14. The Salvation Army’s mission and inspiration is a divine command to save souls, and

particularly men and women rejected by society and untouched by ordinary religious efforts, such as the underprivileged, individuals who have been estranged from their families, the homeless or otherwise disaffiliated, individuals with criminal histories, the chronically unemployed, individuals who have been unable to cope with the normal demands of society, as well as individuals who have had problems with alcohol or drugs, by exposing them to the Gospel.

15. Salvation Army Officers, who are ordained ministers of the Gospel, oversee the Eastern Territory ARC Command and set policies and procedures, including Territory-wide policies regarding the use of various medications by beneficiaries of the ARCs based in material part on scripture and The Salvation Army's religious beliefs. Salvation Army Officers or other religiously-trained personnel serve as the Administrators of the ARCs in the Eastern Territory and the role of the Administrator of the Saugus ARC and of the Providence ARC was filled by an Officer at all relevant times for purposes of the FAC.

16. ARC beneficiaries are individuals with a variety of spiritual and social issues that can be alleviated through the spiritual and work therapy program offered by the ARCs.

17. The ARCs do not limit admission to, or otherwise target, persons who suffer from problems related to drugs or alcohol. Rather, the ARC programs are designed to provide for the spiritual and social rehabilitation of disaffiliated persons generally.

18. It is the objective of The Salvation Army to make Jesus Christ an integral part of the lives of the beneficiaries, to instill in them a Christian philosophy of life, to teach them habits of industry and thereby make them moral, self-respecting and productive members of society. The ARC program focuses on the spiritual growth of the beneficiaries and is overseen by religiously trained personnel.

19. The Salvation Army's Adult Rehabilitation Centers Command "Handbook of

Standards, Principles, and Policies,” which governs the operation of all ARCs within the Eastern Territory, provides that the primary function of the ARC is:

the spiritual regeneration and rehabilitation of men and women who have undergone a process of disaffiliation from those significant ties which enable individuals to take advantage of the opportunities and cope with the tribulations of everyday life . . . The [Adult Rehabilitation] Center[s] afford them the opportunity to gain insights into their problems, while acquiring self-respect, and to develop moral and spiritual principles of conduct and habits of industry that will enable them to gain purpose and meaning in their lives.

A true and correct copy of excerpts of the Handbook of Standards, Principles, and Policies is attached hereto as Exhibit A.

20. The ARC programs are open to individuals who are willing to comply with the various Christian-based requirements of the program and who are otherwise eligible for admission. These requirements include attending religious services twice per week, undergoing spiritual counseling, and committing to not engage in the use of alcohol or drugs, including narcotic or addictive prescription medications. The specific medications that are prohibited are set forth in a medication policy that applies only to the ARCs operated by the New York Corporation.

21. Beneficiaries are not admitted to the Saugus ARC, Providence ARC, or any of the ARCs within the Eastern Territory, unless they agree to participate in the religious program and adhere to the medication policy. Failure to participate in the religious activities and adhere to the Territory-specific medication policy of the ARCs results in termination from the program.

22. Because ARC beneficiaries must commit to complying with the religious requirements of the program and because the program is not designed to provide medical or psychiatric care, no ARC applicant is admitted while intoxicated or under the influence of drugs.

23. Abstaining from alcohol and intoxicants is an essential tenet of the religion of The Salvation Army, and has been part of the religious underpinnings of the organization since its

founding in the 19th century.

24. The Salvation Army's religious beliefs include that its members should be "sober-minded," and treat their bodies as a temple. These beliefs are published tenets of the religion. For example, a true and correct copy of The Salvation Army's positional statement on alcohol in society, also available at <https://salvationarmy.org/ihq/ipsalcoholinsociety>, is attached hereto as Exhibit B, and it cites scripture, including 1 Corinthians 6:19-20, as part of the religious basis for The Salvation Army's beliefs about drugs and alcohol.

25. The policy prohibiting use of intoxicants or mind-altering substances, including illicit drugs, alcohol, and even narcotic or addictive prescription medications, is based in part on those long-standing religious beliefs.

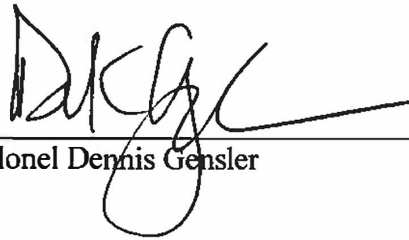
26. The religious-based medication policy implemented at all ARCs within the Eastern Territory prohibits use of certain medication-assisted treatment ("MAT"), including methadone and buprenorphine, but allows alternative medications, such as vivitrol (which is a non-narcotic, non-addictive medication used for treatment of opioid use disorder if appropriate conditions are met).

27. The ARCs are one of any number of programs that may be available to individuals who have had issues that can be addressed in the ARC program; those who are unwilling to commit to the requirements of the ARC programs may seek assistance through a wide variety of other charitable, government, or for-profit institutions. Individuals who do not qualify for the ARC program or who cannot comply with the ARC requirements may be provided with recommendations or referrals to other programs that may be available to those individuals.

28. While some ARC beneficiaries may participate in alcohol or drug-specific activities conducted by outside organizations, such as Alcoholics Anonymous, the ARC program itself is spiritual in nature and does not provide substance use disorder treatment services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed September 21, 2021 at West Nyack, New York.

A handwritten signature in black ink, appearing to read 'DKG', is written over a horizontal line.

Lt. Colonel Dennis Gensler

EXHIBIT A

**THE SALVATION ARMY
ADULT REHABILITATION CENTERS
HANDBOOK
of
STANDARDS, PRINCIPLES AND POLICIES**



Approved by the
COMMISSIONERS' CONFERENCE

February 2020

INTERNATIONAL MISSION STATEMENT

The Salvation Army, an international movement, is an evangelical part of the universal Christian Church. Its message is based on the Bible. Its ministry is motivated by the love of God. Its mission is to preach the gospel of Jesus Christ and to meet human needs in His name without discrimination.

THE ADULT REHABILITATION CENTER

An adult rehabilitation center serves men and women with social, emotional and spiritual needs who have lost the ability to cope with their problems and provide for themselves. The center provides adequate housing with group and individual counseling and work therapy in clean, wholesome surroundings. Physical and spiritual care prepares the beneficiaries to re-enter society and return to gainful employment. Frequently those rehabilitated are reunited with their families and resume a normal lifestyle. The work therapy component of the center includes the collection and processing of donated materials and the operation of Salvation Army family/thrift stores in which restored materials are sold at moderate prices. Proceeds from these stores assist in supporting the program of the centers.

The program is available without discrimination in keeping with The Salvation Army's National Policy on Non-Discrimination in Programs and Delivery of Services.

The program at the adult rehabilitation centers is not licensed; government regulation is only appropriate in areas of basic health and safety, such as compliance with building codes, including certificate of occupancy requirements, and compliance with health codes, including food service permit requirements. See The Salvation Army Guidelines For Licensing By Governmental Bodies.

THE PURPOSE OF AN ADULT REHABILITATION CENTER

The primary purpose of an adult rehabilitation center is the spiritual regeneration and rehabilitation of men and women who have undergone a process of disaffiliation from those significant ties which enable individuals to take advantage of the opportunities and cope with the tribulations of everyday life. These men and women may be challenged morally, physically, emotionally and socially. More importantly, they are often handicapped spiritually. The center

affords them the opportunity to gain insights into their problems, while acquiring self- respect, and to develop moral and spiritual principles of conduct and work habits that will enable them to gain purpose and meaning in their lives.

This makes for a complex operation requiring a carefully organized combination of spiritual endeavor; applied social services, education, effective use of the unique work therapy component, referral when necessary to medical and or psychological care, and the practical application of sound business principles. This requires close coordination with and careful use of all community resources.

THE SPIRITUAL BASE

The entire program of an adult rehabilitation center is built on a spiritual motivation — a desire to help men and women as an expression of Divine love. This is the permeating and motivating force behind the work of every officer and staff member connected with the center as they apply a variety of spiritual, social, vocational, educational and counseling techniques and approaches.

A direct spiritual approach is a necessary part of this overall program. The Salvation Army is firm in the belief that human regeneration is found only through Jesus Christ. The hope is that each beneficiary will see God as loving, merciful, and forgiving, concerned about personal failings and unhappiness, and waiting for the opportunity to lift his or her burdens. For this to be effective, the Spirit of God must pervade the entire center and all its activities. This is the base on which each part of the program is built and from which each member of the staff operates. Spiritual care includes individual and group spiritual counseling and attendance at religious services, bible classes and intentional modeling of Christian lifestyle by members of the center staff. The center requires each beneficiary to participate in all religious and spiritual activities and thus provides the opportunity for each beneficiary to gain full insight into spiritual values.

EXHIBIT B

POSITIONAL STATEMENT: ALCOHOL IN SOCIETY

STATEMENT OF POSITION

The Salvation Army encourages an alcohol free lifestyle as a way of enhancing the wellbeing and health of all people. As a witness to this, Salvation Army soldiers choose to live an alcohol free life.

The Salvation Army recognises the harm alcohol causes in individuals, families and communities. It advocates for reducing the consumption of alcohol, and it offers its services to support and restore people negatively impacted by alcohol use.

BACKGROUND AND CONTEXT

Alcohol is a mind altering substance with sedative effects similar to those of barbiturates. Apart from social effects of use, alcohol intoxication may result in poisoning or even death. Long-term heavy use may result in dependence or in a wide variety of physical and organic mental disorders. Risks associated with alcohol include violence, road traffic accidents and work place injuries.

Many people use alcoholic drinks in a safe and acceptable way but alcohol always has the potential to create harm and dependency.

A major report by the World Health Organization (WHO) in 2014 [1] has recorded the negative impacts of alcohol globally:

- In 2012, about 3.3 million deaths, or 5.9% of all global deaths, were attributable to alcohol consumption.
- 5.1% of the global burden of disease and injury is attributable to alcohol consumption.
- Worldwide, about 16.0% of drinkers engage in heavy episodic drinking.

Around the world, The Salvation Army faces human situations where alcohol is used in excessive or harmful ways. The result of alcohol abuse is destructive to individuals, families and communities.

The international alcohol industry is a multibillion dollar activity.[2] The industry markets alcohol as an attractive and socially useful product. Globally the industry generally fails to acknowledge adequately the dangerous and harmful impact alcohol has on people and communities.

Alcohol plays a central role in the economy of many countries – including agricultural production, manufacturing and marketing of alcohol, the hospitality and leisure sector. Therefore there is an incentive to governments to support the alcohol industry.

GROUNDINGS FOR THE POSITION OF THE SALVATION ARMY

Scripture teaches the human life and the body should be respected in every possible way.

Paul in his letter to the Corinthian church states:

Do you not know that your bodies are temples of the Holy Spirit, who is in you, whom you have received from God? You are not your own; you were bought at a price. Therefore honour God with your bodies' (1 Cor. 6:19-20 NIV).

Alcohol-free living contributes to health and wellbeing for people.

At the commencement of its mission The Salvation Army immediately confronted human and community damage resulting from the consumption of alcohol. This growing awareness of alcohol harm caused The Salvation Army to require soldiers to abstain from alcohol in the belief that a happy fulfilled life could be achieved without its use. People once lost in a cycle of poverty and drunkenness took the abstinence pledge in earnest—and it transformed their lives. The alcohol-free community of faith they entered was often a key factor in their process of recovery and restoration.

The Salvation Army position on alcohol arises from concern regarding the harmful impact its abuse can have on individuals, families and communities. The Salvation Army is engaged globally with people suffering directly or indirectly as a consequence of alcohol abuse and addiction. In solidarity therefore, soldiers live an alcohol free life.

Although alcohol is enjoyed by many people we believe a reduction of its use is consistent with caring for our neighbour as we care for ourselves (Matthew 22:39). As Christians, we need to take care that the exercise of our freedom does not become a stumbling block to the weak (1 Corinthians 8:9).

PRACTICAL RESPONSES

1. Globally, The Salvation Army positively promotes an alcohol free way of living.

2. Salvation Army soldiers commit to abstain from the use of alcohol. The purpose of this abstinence from alcohol is to provide a living example of the positive benefits of an alcohol free lifestyle.
3. The Salvation Army will continue and improve prevention and education programmes to help children and adults understand the risks of alcohol.
4. Where possible The Salvation Army will assist people who become addicted or are affected by abuse.
5. The Salvation Army will encourage national, state and local governments to provide appropriate legislation around the sale, marketing and production of alcohol. Such legislation should take regard of the harm caused to communities families and individuals where alcohol is abused or used excessively.
6. The Salvation Army will campaign against alcohol industry practices which could lead to an increase in the consumption of alcohol. For example, pricing mechanisms which increase the cost of alcohol have been shown to be an effective instrument for reducing alcohol consumption.[3]

REFERENCES

Report Linker. (2014). Global alcoholic drink market: future trends detailed. Retrieved March 2015, from Report Linker: <http://www.reportlinker.com/ci02014/Alcoholic-Drink.html>
[. \(http://www.reportlinker.com/ci02014/Alcoholic-Drink.html\)](http://www.reportlinker.com/ci02014/Alcoholic-Drink.html).

World Health Organization. (2014). Global status report on alcohol and health 2014. Retrieved March 2015, from http://apps.who.int/iris/bitstream/10665/112736/1/9789240692763_eng.pdf?ua=1
[.\(http://apps.who.int/iris/bitstream/10665/112736/1/9789240692763_eng.pdf?ua=1\)](http://apps.who.int/iris/bitstream/10665/112736/1/9789240692763_eng.pdf?ua=1).

World Health Organization. (2014). WHO calls on governments to do more to prevent alcohol-related deaths and diseases. Retrieved March 2015, from World Health Organization: <http://www.who.int/mediacentre/news/releases/2014/alcohol-related-deaths-prevention/en/>
[.\(http://www.who.int/mediacentre/news/releases/2014/alcohol-related-deaths-prevention/en/\)](http://www.who.int/mediacentre/news/releases/2014/alcohol-related-deaths-prevention/en/).

World Health Organization. (n.d.). Alcohol Fact Sheet, updated January 2015. Retrieved March 2015, from World Health Organization: <http://www.who.int/mediacentre/factsheets/fs349/en/>
[.\(http://www.who.int/mediacentre/factsheets/fs349/en/\)](http://www.who.int/mediacentre/factsheets/fs349/en/).

World Health Organization Regional Office for Europe. (2009). Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm. Retrieved March 2015, from http://www.euro.who.int/_data/assets/pdf_file/0020/43319/E92823.pdf
[.\(http://www.euro.who.int/_data/assets/pdf_file/0020/43319/E92823.pdf\)](http://www.euro.who.int/_data/assets/pdf_file/0020/43319/E92823.pdf).

Approved by the General, May 2015

The views expressed in this international positional statement constitute the official position of The Salvation Army on the issue addressed, and they may not be modified or adapted in any way without the express written permission of International Headquarters.

[1] World Health Organization. Global status report on alcohol and health 2014. World Health Organization. WHO calls on governments to do more to prevent alcohol-related deaths and diseases. World Health Organization Alcohol Fact Sheet, updated January 2015.

[2] Report Linker. Global alcoholic drink market: future trends detailed

[3] World Health Organization Regional Office for Europe. Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm.